

Court of Appeals, State of Michigan

ORDER

People of MI v Jamario Carter

Docket No. 260863

LC No. 04-500020

Brian K. Zahra
Presiding Judge

Michael J. Talbot

Christopher M. Murray
Judges

In lieu granting leave to appeal, the circuit court's order of January 28, 2005 is **AFFIRMED** because it reached the right result for the wrong reason. *People v Lyon*, 227 Mich App 599, 612-613; 577 NW2d 124 (1998). The circuit court erred in reversing the district court's order of dismissal on search and seizure grounds because the district court did not order suppression of the evidence but dismissed for "insufficient evidence." Upon de novo review of the evidence adduced at the preliminary examination, we find that the evidence was sufficient to establish that the offenses charged had probably been committed by defendant. *People v McBride*, 204 Mich App 678, 681; 516 NW2d 148 (1994).

The evidence showed that the police found defendant running into a house with a gun in his hand. Such evidence created reason to believe that defendant was in possession of a firearm. *People v Avant*, 235 Mich App 499, 505-506; 597 NW2d 864 (1999). The stipulation that defendant had been convicted of felon in possession of a firearm and possession of a firearm during the commission of a felony in 2000 created reason to believe that at the time defendant possessed the firearm, he had previously been convicted of a specified felony, MCL 750.224f(6)(iii), and that less than five years had passed since he served whatever sentence had been imposed for the prior conviction. MCL 750.224f(2). Thus, the evidence presented created probable cause to believe that defendant committed felon in possession of a firearm. Because defendant possessed a firearm at the time he committed that offense and because felony-firearm can be predicated on felon in possession of a firearm, *People v Dillard*, 246 Mich App 163; 631 NW2d 755 (2001), the evidence created probable cause to believe that defendant committed felony-firearm. MCL 750.227b(1).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 18 2005

Date

Sandra Schultz Mengel
Chief Clerk